



POLICY BRIEF



POLICIES THAT LED TO THE BIDEN BORDER CRISIS

The Trump Administration implemented numerous immigration policies to secure the border and keep Americans safe. The Biden Administration's dismantling of these policies, lack of enforcement, and open border rhetoric has led to a humanitarian crisis at the southern border. The unprecedented number of illegal immigrants attempting to cross the border will not end unless the Biden Administration works to reverse its actions and change its rhetoric.

- Homeland Security Secretary Alejandro Mayorkas stated, "We are on pace to encounter more individuals on the southwest border than we have in the last 20 years."¹ In February 2021, more than 9,400 children and teenagers were detained at the border.² Unlike the 2014 and 2019 immigration surges of families, in 2021, 82 percent of the illegal crossings are single adults, many in search of work.³
- The flood of immigrants distracts border agents from their national security mission as they provide child-care to thousands of immigrants.⁴ Meanwhile, drug smugglers have not taken a holiday. In February, border agents were also responsible for seizing over 63,000 pounds of illegal drugs.⁵ Further, cartels are expanding their business model and robbing immigrants of over \$14 million per day for smuggling families, minors, and individuals to the border.⁶

The crisis at the border is largely due to the dismantling of four important policies used by the Trump Administration. These policies must immediately be reinstated to alleviate this crisis.

Four Border Policies that the Biden Administration Has Dismantled:

1. **Constructing a Border Wall:**

- Proper border security is essential to maintaining a legal and orderly system of immigration.⁷ The Trump Administration finished over 452 miles of physical barriers, access roads, lighting, and advanced technologies to secure the Southern border.⁸ However, on January 20, 2021, President Biden signed an executive order ending the emergency declaration at the southern border and halting construction of the border wall.⁹
- By halting border wall construction, President Biden communicated that enforcing immigration law and enhancing national security at the border are meaningless to his administration.

2. **Enforcing Title 42 during a pandemic:**

- The Department of Health and Human Services has the authority through Title 42 of federal law to require a medical examination for all migrants before being admitted in the United States.¹⁰ The Trump Administration used this title during the COVID-19 pandemic to limit the spread of the virus at the border and among immigrants.
- The Biden Administration, on the other hand, exempted unaccompanied children from this provision.¹¹ This change has become a green light for minors crossing the border. In fact, children are unable to take any health precautions in their overcrowded holding facilities. For example, on March 23, 2021, in Donna, Texas, 400 children were held in pods made for 250 children.¹²

3. **Using Migrant Protection Protocols (MPPs):**

- MPPs were enacted in 2019 to allow certain individuals seeking asylum to wait in Mexico for their immigration proceedings rather than granting free entry into the United States. On January 20, 2021, the Department of Homeland Security (DHS) suspended new enrollment in MPP.¹³
- By ending this policy, the Biden Administration loosened limits on the coyotes' smuggling business and encouraged Central American asylum-seekers to come illegally and dangerously before applying for

asylum.¹⁴ Team Brownsville, a volunteer group that helps migrants seeking asylum, describes how this policy is negatively affecting children and parents: Because asylum-seekers may enter and stay, mothers and children are encouraged to make the treacherous journey to the border and then face the trauma of sending their children on with only a hope of reuniting.¹⁵ Republicans, on the other hand, support creating safe and lawful opportunities for families to seek asylum, including MPPs.

4. Upholding Asylum Cooperative Agreements (ACAs):

- ACAs were formed in 2019 between United States and El Salvador, Honduras, and Guatemala in order to expand asylum capabilities. Under ACAs, the U.S. partners with another country to offer humanitarian aid to asylum-seekers. These agreements allow DHS to use every tool available to provide timely humanitarian aid by sharing the load of asylum-seekers.
- On February 6, 2021, the Department of State cancelled all ACAs. In this move the Biden Administration eliminated an essential tool for aiding asylees and disrupted relationships with countries in the Northern Triangle. Republicans are prepared to use every tool available to help asylees, including ACAs.

Moving forward, Congress should consider actions to prevent illegal immigration, process legitimate asylum claims quickly, and protect our border. Additionally, Congress should limit factors that encourage vulnerable migrants to make the dangerous journey to enter the United States illegally in the first place. Through these actions, Congress can create a lawful, organized system for the good of both immigrants and our fellow Americans. If the Biden Administration and Democrats do not change course, this catastrophe will only intensify.

¹ “Statement by Homeland Security Secretary Alejandro N. Mayorkas Regarding the Situation at the Southwest Border.” U.S. Department of Homeland Security. March 16, 2021. <https://www.dhs.gov/news/2021/03/16/statement-homeland-security-secretary-alejandro-n-mayorkas-regarding-situation>

² “Southwest Land Border Encounters.” U.S. Customs and Border Protection. <https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters>

³ Juan Montes and Alicia A. Caldwell. “Men Looking for Work Drive Surge in Illegal Crossings at the U.S. Border.” *Wall Street Journal*. March 24, 2021 https://www.wsj.com/articles/men-looking-for-work-drive-migrant-surge-at-the-u-s-border-11616624482?st=cmgrtz4z4yhm40w&reflink=article_gmail_share

⁴ Paul Bedard “Photos: Agents pulled from border to feed, diaper illegal immigrants.” *Washington Examiner*. March 23, 2021. <https://www.washingtonexaminer.com/washington-secrets/photos-agents-pulled-from-border-to-feed-diaper-illegal-immigrants>

⁵ “Drug Seizure Statistics.” U.S. Customs and Border Protection. <https://www.cbp.gov/newsroom/stats/drug-seizure-statistics>

⁶ William La Jeunesse. “US-Mexico border traffickers earned as much as \$14M a day last month: sources” *Fox News*. March 22, 2021. <https://www.foxnews.com/politics/us-mexico-border-traffickers-million-february>

⁷ “Securing America’s Southwest Border.” Republican Policy Committee. <https://republicanpolicy.house.gov/sites/republicanpolicy.house.gov/files/documents/15%20-%20Secure%20America%27s%20Southwest%20Border.pdf>

⁸ “Biden Administration’s Border Catastrophe—A Policy Tracker.” *Heritage Foundation*. March 15, 2021. <https://www.heritage.org/data-visualizations/immigration/biden-administrations-border-catastrophe-a-policy-tracker/?www>

⁹ “Proclamation on the Termination Of Emergency With Respect To The Southern Border Of The United States And Redirection Of Funds Diverted To Border Wall Construction.” White House. January 20, 2021. <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/proclamation-termination-of-emergency-with-respect-to-southern-border-of-united-states-and-redirection-of-funds-diverted-to-border-wall-construction/>

¹⁰ “Laws and Regulations for the Medical Examination of Aliens.” Centers for Disease Control and Prevention. <https://www.cdc.gov/immigrantrefugeehealth/laws-regulations.html>

¹¹ Jillian Kay Melchior. “Biden’s Border Crisis, Up Close.” *Wall Street Journal*. March 29, 2021. https://www.wsj.com/articles/bidens-border-crisis-up-close-11617057522?mod=hp_opin_pos_1

¹² Scott Neuman. “CBP Defends Conditions At Border Detention Centers Amid Upsurge In Migrants.” *National Public Radio*. March 23, 2021. <https://www.npr.org/2021/03/23/980290448/cbp-defends-conditions-at-border-detention-centers-amid-upsurge-in-migrants>

¹³ “Migrant Protection Protocols.” U.S. Department of Homeland Security. <https://www.dhs.gov/migrant-protection-protocols>

¹⁴ Michael Barone. “Biden’s Open Border Immigration Policy--Why?” American Enterprise Institute. March 11, 2021. <https://www.aei.org/op-eds/bidens-open-borders-immigration-policy-why/>

¹⁵ Jillian Kay Melchior. “Biden’s Border Crisis, Up Close.” *Wall Street Journal*. March 29, 2021. https://www.wsj.com/articles/bidens-border-crisis-up-close-11617057522?mod=hp_opin_pos_1